

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

BRUCE BIRCH.

v.

PAM DELPORTO, *et. al.*,

Plaintiff.

Defendant.

Case No. 3:19-cv-00655-MMD-CLB

ORDER

11 On October 30, 2019, Plaintiff Bruce Birch, then an inmate in the custody of the
12 Nevada Department of Corrections, initiated this prisoner civil rights action pursuant to 42
13 U.S.C. § 1983. (ECF No. 1-1.) On January 14, 2021, Defendant filed a suggestion of
14 death on the record. (ECF No. 39.) On January 19, 2021, pursuant to Federal Rule of
15 Civil Procedure 25(a)(1), the Court directed any party or the decedent's successor or
16 representative to file a motion for substitution within 90 days after service of a statement
17 noting death. (ECF No. 40.) That deadline has now expired, and no party has filed a
18 motion for substitution.

19 Under Federal Rule of Civil Procedure 25(a)(1), “[i]f a party dies and the claim is
20 not extinguished, the court may order substitution of the proper party. A motion for
21 substitution may be made by any party or by the decedent’s successor or representative.
22 If the motion is not made within 90 days after service of a statement noting the death, the
23 action by or against the decedent must be dismissed.” Fed. R. Civ. P. 25(a)(1).

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1 It is therefore ordered that this action is dismissed with prejudice because no
2 motion for substitution was made in accordance with the Court's order.

3 The Clerk of Court is directed to enter judgment accordingly and close this case.

4 DATED THIS 20th Day of April 2021.

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7 MIRANDA M. DU
8 CHIEF UNITED STATES DISTRICT JUDGE

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